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From: Thomas W. Cole	Date: December 27, 2004	No. of Pages: (including this page) 7	
Comments: In re Patent Application of Masayuki ENDO et al. Application No. 09/921,921 Filed: August 6, 2001 For: ELECTRON BEAM ALIGNER, OUT- GASSING COLLECTION METHOD AND GAS ANALYSIS FILED HEREWITH: Request for Refund (Improper Charge to Deposit Account)			

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From: Thomas W. Cole	Date: December 27, 2004	No. of Pages: (including this page) 7	Client/Matter: 740819-595
User #: 8682	Ext: 8206	Disbursement Amount: \$	

Docket No. 740819-595

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Masayuki ENDO et al.)	Group Art Unit: 2853
Application No. 09/921,921)	
Filed: August 6, 2001)	Examiner: L. S. Nguyen
For: ELECTRON BEAM ALIGNER, OUT-)	
GASSING COLLECTION METHOD)	Confirmation No.: 8577
AND GAS ANALYSIS)	

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, or being facsimile transmitted to the USPTO at (703) 872-9306, on July 13, 2004.

Angeline Graham
Angeline Graham

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AMENDMENT AFTER FINAL OFFICE ACTION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action mailed March 17, 2004, please amend the above identified application as follows.

NVA

10. An electron beam aligner comprising:

... wherein the exposure chamber is constructed such that an outgas, released from said resist film when irradiated with said electron beam, is collected and analyzed in order to prevent the outgas from absorbing the energy of the electron beam and to analyze the constituents of the collected outgas. (Emphasis added)

Takashi et al. obviously focuses on analyzing N₂ gas released from metals (see again the partial translation of Takashi at page 462, column 6, lines 7-19), so Takashi et al. do not have any concern with a plurality of gas components released from a resist film. In a similar manner, the Kazuoki document also fails to disclose a resist film and an electron beam aligner for use in lithography as mentioned above.

Therefore, as each and every limitation must be disclosed or suggested by the cited prior art reference in order to establish a *prima facie* case of obviousness (see, M.P.E.P. Chapter § 2143.03), it is respectfully submitted that claims 5, 6, 9 and 10 are patentable over Kazuoki taken alone or in combination with Takashi et al.

Under Federal Circuit guidelines, a dependent claim is not obvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hardness International Inc. v. Diplomatic Engineering Co.*, 819 F.2d 1100, 1108 2 USPQ2d 1826,1834 (Fed. Cir.1987). Accordingly, as claim 8 is patentable for the reasons set forth above, it is respectfully submitted that pending dependent claim 9 is also in condition for allowance.

Finally, as noted by MPEP Chapter § 609 at C(3), since the partial translations of Takashi et al. and Kazuoka have been submitted as evidence in response to the issues of patentability raised by the Examiner in the new grounds of rejection set forth in the final Office Action of March 17, 2004, there is no need to satisfy the requirements of 37 C.F.R. § 1.97 or 1.98; however, for the Examiner's convenience each partial translation is set forth on a PTO-1449A form attached hereto. Upon consideration of the partial translation, it is respectfully requested that the Examiner



**United States
Patent and
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